

IC 13-17-6

Chapter 6. Regulation of Asbestos and Asbestos Contractors

IC 13-17-6-1

Asbestos emission control; program for accreditation of persons engaged in inspection, management, or abatement; licensing of contractors

Sec. 1. (a) This section does not apply to a person making an inspection under the authority of IC 22-8-1.1.

(b) The board shall adopt rules under IC 4-22-2 requiring the commissioner to establish a program for the following:

- (1) The accreditation of persons engaged in the inspection, management, or abatement of asbestos containing material.
- (2) The licensing of asbestos contractors.

(c) The board shall, in the rules adopted under this section, do the following:

- (1) Prohibit a person without accreditation or an asbestos contractor without a license from engaging in the inspection, management, or abatement of asbestos containing material at:

(A) elementary and secondary schools; and

(B) facilities subject to:

(i) United States Environmental Protection Agency regulations; or

(ii) rules of the board;

pertaining to asbestos emission control.

- (2) Require training and examination as a precondition to accreditation.

- (3) Require periodic retraining and reexamination to maintain accreditation.

- (4) Establish minimum requirements for the issuance of an asbestos contractor license, including a requirement that all workers employed by an asbestos contractor to inspect, manage, or abate asbestos containing material be accredited under the program established under this section.

- (5) Extend the applicability of the accreditation and licensing requirements to other facilities as determined by the board.

- (6) Exempt from accreditation and licensing requirements a person that performs work:

(A) on a private residential dwelling and commercial residential building with fewer than five (5) dwelling units; and

(B) during an emergency that results from a sudden and unexpected event that is not a planned asbestos project.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-2

Fee for certification

Sec. 2. (a) This section does not apply to a person making an inspection under the authority of IC 22-8-1.1.

- (b) The board shall adopt a rule under IC 4-22-2 to do the following:
 - (1) Establish a fee not to exceed one hundred fifty dollars (\$150) per person per certification for persons seeking accreditation through the program established under section 1 of this chapter.
 - (2) Establish a fee for asbestos contractors seeking licensing through the program established under section 1 of this chapter.
 - (c) The amount of the fee established under subsection (b) must not be more than is considered to be necessary to recover the cost of establishing the accreditation and licensing programs.
 - (d) The proceeds of the fee shall be deposited in the asbestos trust fund established by section 3 of this chapter.
- As added by P.L.1-1996, SEC.7.*

IC 13-17-6-3

Asbestos trust fund

- Sec. 3. (a) The asbestos trust fund is established to provide a source of money for the purposes set forth in section 4 of this chapter.
- (b) The expenses of administering the fund shall be paid from the money in the fund.
 - (c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.
 - (d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.
 - (e) The sources of money for the fund are the following:
 - (1) Accreditation fees paid under section 2 of this chapter.
 - (2) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.
 - (3) Penalties imposed under IC 13-30-4 and IC 13-30-5 for violations of the rules of the board concerning asbestos.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-4

Asbestos trust fund; use of funds

- Sec. 4. The commissioner may use money in the fund to do the following:
- (1) Pay the expenses of administration of the accreditation program established under section 1 of this chapter.
 - (2) Cover other costs related to implementation of the federal Asbestos Hazard Emergency Response Act of 1986 (15 U.S.C. 2641 et seq.).

As added by P.L.1-1996, SEC.7.

IC 13-17-6-5

Agents or employees of licensed asbestos contractor; necessity of accreditation under certain circumstances

- Sec. 5. An asbestos contractor licensed under this chapter may not allow an agent or employee of the contractor to:
- (1) exercise control over an asbestos project; or
 - (2) come into contact with asbestos;

unless the agent or employee is accredited under this chapter.
As added by P.L.1-1996, SEC.7.

IC 13-17-6-6

Records of asbestos removal projects; contents; maintenance; inspection

Sec. 6. (a) An asbestos contractor licensed under this chapter shall compile records concerning each asbestos project the asbestos contractor performs. The records must include the following information on each asbestos project:

(1) The name, address, and proof of accreditation of the following:

(A) The person who supervised the asbestos project for the asbestos contractor.

(B) Each employee or agent of the asbestos contractor that worked on the project.

(2) The site of the asbestos project.

(3) A description of the asbestos project.

(4) The amount of asbestos containing material that was removed in the project.

(5) The date on which the asbestos project was started and the date on which the asbestos project was completed.

(6) A summary of procedures that were used in the asbestos project to comply with all applicable federal and state standards on asbestos projects.

(7) The name and address of each disposal site used for the disposal of asbestos containing material that was disposed of on the asbestos project.

(b) A copy of each receipt issued by a disposal site identified under subsection (a)(7) must be included in the records concerning the project compiled under this section.

(c) An asbestos contractor shall retain the records compiled under subsection (a) concerning a particular asbestos project for at least thirty (30) years after the asbestos project is concluded.

(d) An asbestos contractor shall make records kept under this section available to the department upon request.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-7

Onsite inspection of asbestos project

Sec. 7. At least one (1) time each year, the department shall investigate the procedures employed by each licensed asbestos contractor with regard to the:

(1) abatement;

(2) removal;

(3) renovation;

(4) enclosure;

(5) repair; and

(6) encapsulation;

of asbestos containing material by conducting an inspection of the site of an asbestos project being carried out by the licensed asbestos

contractor.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-8

Public asbestos projects; bidder restrictions

Sec. 8. A political subdivision or a state agency may not accept a bid for an asbestos project from a person that does not hold an asbestos contractor license.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-9

Commissioner's inspection or investigation

Sec. 9. The commissioner may do the following:

- (1) Inspect the site of an asbestos project:
 - (A) during the project; or
 - (B) after the project is completed.
- (2) Conduct an investigation of an asbestos project upon:
 - (A) the commissioner's own initiation; or
 - (B) the receipt of a complaint by a person.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-10

Injunction against nonconforming asbestos removal procedures; notice; review

Sec. 10. (a) If the commissioner finds that an asbestos project is not being performed in accordance with air pollution control laws or rules adopted under air pollution control laws, the commissioner may enjoin further work on the asbestos project without prior notice or hearing by delivering a notice to:

- (1) the asbestos contractor engaged in the asbestos project; or
 - (2) the agent or representative of the asbestos contractor.
- (b) A notice issued under this section must:
- (1) specifically enumerate the violations of law that are occurring on the asbestos project; and
 - (2) prohibit further work on the asbestos project until the violations enumerated under subdivision (1) cease and the notice is rescinded by the commissioner.

(c) Not later than ten (10) days after receiving written notification from a contractor that violations enumerated in a notice issued under this section have been corrected, the commissioner shall issue a determination whether or not to rescind the notice.

(d) An asbestos contractor or any other person aggrieved or adversely affected by the issuance of a notice under subsection (a) may obtain a review of the commissioner's action under IC 4-21.5 and IC 4-21.5-7.

As added by P.L.1-1996, SEC.7. Amended by P.L.25-1997, SEC.8.

IC 13-17-6-11

Reprimand, suspension, or revocation of license or accreditation; grounds

Sec. 11. (a) The commissioner may under IC 4-21.5 reprimand an asbestos contractor or asbestos worker or suspend or revoke the license of an asbestos contractor or the accreditation of an asbestos worker for the following reasons:

- (1) Fraudulently or deceptively obtaining or attempting to obtain a license or accreditation under this chapter.
- (2) Failing to meet the qualifications for a license or accreditation or failing to comply with the requirements of air pollution control laws or rules adopted under air pollution control laws.
- (3) Failing to meet an applicable federal or state standard for the abatement, removal, or encapsulation of asbestos.

(b) The commissioner may under IC 4-21.5 reprimand an asbestos contractor or suspend or revoke the license of an asbestos contractor that does any of the following:

- (1) Employs a person who is not accredited under this chapter.
- (2) Permits a person who is not accredited under this chapter to work on an asbestos project.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-12

Necessity of license or accreditation before performing asbestos project; exceptions

Sec. 12. (a) Except as provided in subsections (c) and (d), a person that enters into a contract providing for the person to execute, for compensation, an asbestos project must hold an asbestos contractor's license.

(b) Except as provided in subsections (c) and (d), an individual who works on an asbestos project must be accredited under this chapter.

(c) In an emergency that results from a sudden and unexpected event that is not a planned renovation or demolition, the commissioner may waive the requirements set forth in subsections (a) and (b) for a person that enters into a contract or works to resolve the emergency.

(d) The commissioner may:

- (1) exempt an employer from subsection (a); and
- (2) exempt the employer's employees from subsection (b) with respect to an asbestos project on premises owned or leased by the employer;

if the commissioner determines that the employer has adopted and is enforcing an asbestos safety program that is adequate to protect the health and safety of the employees and of any other persons who are or may be affected by the asbestos project.

As added by P.L.1-1996, SEC.7.